

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DWAYNE COX
Plaintiff,

v.

Case No. 10C0766

**SGT KEITH IMMERFALL,
CORRECTIONAL OFFICER
BRADLEY, and CORRECTIONAL
OFFICER MIERZEJEWSKI**
Defendants.

ORDER

Plaintiff Dwayne Cox, who is incarcerated at the Columbia Correctional Institution, filed this pro se complaint under 42 U.S.C. § 1983, alleging that defendants violated his civil rights. Instead of paying the \$350 filing fee mandated by 28 U.S.C. § 1914(a), plaintiff moves to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).

In compliance with § 1915(a)(2) plaintiff submitted a certified copy of the trust fund account statement for the 6-month period immediately preceding the filing of the complaint. Review of plaintiff's affidavit and account statement shows that is able to pay the \$350 filing fee. For the 6-month period immediately preceding the filing of the instant complaint, the average monthly deposit to the plaintiff's account was \$127.22 and the average monthly balance to the account was \$630.03. Plaintiff has no monthly expenses or dependents and as a prisoner his basic needs are provided for by the State. I will therefore deny the motion to proceed in forma pauperis and direct plaintiff to pay the \$350 filing fee.

Upon receipt of the filing fee I will screen plaintiff's complaint pursuant to § 1915A and dismiss it if its claims are frivolous or malicious, or fail to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief. If plaintiff does not pay the filing fee by October 22, 2010, I will conclude that he does not wish to pursue this action. In that event, the case will be dismissed without prejudice and plaintiff will still owe the \$350 fee.

THEREFORE IT IS ORDERED that the motion to appeal in forma pauperis is **DENIED**.

IT IS FURTHER ORDERED that plaintiff will have until **October 22, 2010** to pay the entire \$350 filing fee. If plaintiff fails to pay the filing fee, this action will be dismissed without prejudice.

Dated at Milwaukee, Wisconsin, this 27 day of September, 2010.

/s _____
LYNN ADELMAN
District Judge